

**BOARD FOR GEOLOGISTS AND GEOPHYSICISTS**

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E-mail: geology@dca.ca.govWebsite: www.dca.ca.gov/geology**MINUTES OF THE MEETING OF THE
BOARD FOR GEOLOGISTS AND GEOPHYSICISTS****September 24, 2002****2535 Capitol Oaks Drive
Sacramento, CA 95833-2926****1. CALL MEETING TO ORDER**

Robert A. Matthews, Ph.D., Vice President, called the meeting to order at 9:00 AM.

2. ROLL CALL TO ESTABLISH QUORUM

Robert A. Matthews, Ph.D., Vice President
William E. Black
Craig A. Copelan
Claude D. Fiddler
Sharon Jasek Reid
Thomas E. Ross

Others in attendance:

Paul Sweeney, Executive Officer
Gary Duke, Legal Counsel, Department of Consumer Affairs (DCA)
George Dunfield, Enforcement Manager
Mary Lynn Ferreira, Associate Governmental Program Analyst
Scott Hector, Chair, Examination Committee (arrived at 1:10 PM)
Cruz Naranjo, DCA, Legislative and Regulatory Review Division
Mustapha Parekh, University of San Diego, Center for Public Interest Law
Arlene Sakazaki, DCA, Budget Office
Tony Sawyer, Chair, Technical Advisory Committee
Dana Winterrowd, Staff Counsel, DCA, Office of Privacy Protection

3. PRESENTATION OF CERTIFICATES OF COMMENDATION TO DORENE DOMINGUEZ AND KAREN MELIKIAN

Dr. Matthews announced that Certificates of Commendation are being sent to Dorene Dominguez and Karen Melikian for their service as Board members.

Dr. Matthews introduced and welcomed public Board Member Craig A. Copelan.

4. APPROVAL OF THE MINUTES OF THE BOARD MEETING OF JULY 12, 2002

Ms. Reid moved to approve the minutes of the open and closed sessions of the July 12, 2002, meeting.

Mr. Fiddler seconded.

The motion passed unanimously.

5. PUBLIC COMMENT ON NON-AGENDA ITEMS

There was no public comment.

Mr. Ross arrived and was sworn in as a public Board Member by Mr. Sweeney.

6. ELECTION OF BOARD PRESIDENT AND VICE PRESIDENT

Dr. Matthews nominated Mr. Fiddler, and Mr. Black nominated Ms. Reid for president.

Mr. Fiddler declined the nomination and nominated Dr. Matthews.

Neither Dr. Matthews nor Ms. Reid was elected. (Matthews – Copelan, Fiddler, Matthews. Reid – Black, Reid, Ross)

Elections were deferred to the next meeting.

Dr. Matthews appointed Mr. Copelan as an ex-officio member of the Legislative Committee and Mr. Ross as an ex-officio member of the Technical Advisory Committee.

7. PRESENTATION TO BOARD BY THE DEPARTMENT OF CONSUMER AFFAIR'S OFFICE OF PRIVACY PROTECTION

Dana Winterrowd, Staff Counsel, DCA, Office of Privacy Protection, gave a presentation on privacy protection issues and history and the mission, accomplishments and future plans of the Office of Privacy Protection.

8. EXECUTIVE OFFICER'S REPORT

- a. Arlene Sakazaki, Budget Analyst, DCA, reported that the Board's appropriation for Fiscal Year 2002/03 is \$1,106,000, a decrease of approximately \$58,000 from Fiscal Year 2001/02. Ms. Sakazaki advised the Board that if it spends the amount authorized, its fund would have a deficit of \$96,000 on June 30, 2003. The Board must save \$300,000 this year and \$340,000 in Fiscal Year 2003/04. The Board can only spend \$806,000 this year. Mr. Sweeney stated he believes the Board can meet the required savings by implementing additional cost savings such as not performing the Registered Geophysicist occupational analysis, reducing the number of Board and Committee meetings, not using technical experts for enforcement cases, holding examinations at one location and reducing the Board's participation at the Annual Meeting and Council of Examiners meetings of the National Association of State Boards of Geology (ASBOG).

Ms. Sakazaki explained the DCA and statewide prorata charges and gave a breakdown of the amounts assessed to the Board for Fiscal Year 2001/02. The Board directed Ms. Sakazaki to find out if the Fiscal Year 2002-03 prorata is based on the Board's personnel years for Fiscal Year 2001-02 and, if so, can it be reduced because of the Board's current personnel years.

(Board Directive 02-21) – (Sakazaki)

- b. George Dunfield, Enforcement Manager, reviewed the status of and statistics on enforcement and complaint cases since the last Board meeting.

Ms. Reid requested that the guidelines or criteria used to determine whether a case is pursued through citation and fine or by filing an accusation be placed on the next Enforcement Oversight Committee meeting agenda.

Expenditures for technical experts and the Division of Investigation are being minimized whenever possible. Two new technical

experts for independent technical review of stability analysis cases have been qualified.

Mr. Dunfield and Mr. Sweeney completed the draft Disciplinary Guidelines and Enforcement Procedures that will be reviewed by the Enforcement Oversight Committee at its next meeting for final recommendation to the Board at its December 5, 2002, meeting.

Mr. Dunfield continues to assist the Attorney General's Office in preparing for a hearing, scheduled in November 2002, for appeal of a citation order issued for the unlicensed practice of geology.

Mr. Dunfield continues to respond to inquiries and to assist in any way possible regarding the practice of geology within various programs, particularly with the California Environmental Protection Agency. He also is working cooperatively and as a resource with several county environmental health departments to identify and correct any areas of potential unlicensed practice of geology by county employees.

Also, Mr. Dunfield anticipates receiving questions and possibly complaints regarding remediation paleontology in response to the Board's September 9, 2002, letter clarifying the role of mitigation paleontologists in the professional practice of geology.

The Enforcement Oversight Committee will meet on November 1, 2002.

- c. Mr. Sweeney reported on completed and pending action items in the 2002 Strategic Plan.
- d. The Board received Mr. Sweeney's Executive Officer Activity Report – Late Summer 2002.
- e. The proposal to create a deep class for the Engineering Geologist is scheduled on the consent calendar of the Department of Personnel Management's meeting on September 24, 2003.

DCA has scheduled a training session for Board members on October 16, 2002, in Los Angeles.

Dorene Dominguez, former Board Member and President, met with Winston H. Hickox, Secretary, California Environmental Protection Agency (Cal/EPA) and his staff on August 16, 2002, to discuss the

Registered Environmental Assessor (REA) Program. Cal/EPA and the Board will work together to implement successfully Senate Bill No. 1011 that transfers the REA Program from the Office of Environmental Health Hazard Assessment to the Department of Toxic Substances Control on January 1, 2003.

9. DISCUSSION OF PERSONNEL MATTERS, EXAMINATION PROCEDURES AND RESULTS, AND PENDING LITIGATION

The Board adjourned to Closed Session as authorized by sections 11126(a)(1), 11126(c)(1) and 11126(e)(1) of the Government Code.

10. REPORT ON RESULTS OF CLOSED SESSION

Dr. Matthews announced that during Closed Session, the Board performed the annual evaluation of the Executive Officer.

11. CONSIDERATION OF REVISIONS TO THE BOARD'S COMPLAINT DISCLOSURE POLICY

The Board reviewed DCA's Recommended Minimum Standards for Consumer Complaint Disclosure. Gary Duke, Legal Counsel, pointed out the differences between DCA's recommendations and the Board's current Complaint Disclosure Policy.

Ms. Reid moved to amend the Board's Complaint Disclosure Policy to include DCA's Conditions of Disclosure substituting "consumer" with "licensee" and to include DCA's recommended Contents of Consumer Complaint History.

Mr. Copelan seconded.

The motion passed unanimously.

12. REPORT ON LEGISLATIVE PROPOSALS SUBMITTED TO THE DEPARTMENT OF CONSUMER AFFAIRS FOR CONSIDERATION

Mr. Sweeney reported that he has submitted to DCA's Legislative and Regulatory Review Division legislative proposals to increase the maximum range for renewal fees, decrease the Registered Geologist experience requirement and make non-substantive changes to the Geologist and Geophysicist Act and the Government Code.

Cruz Naranjo reported that the Legislative and Regulatory Review Division (LRRD) is closing out enrolled bill reports and has not reviewed any legislative proposals. He stated that LRRD will be looking closely at the Board's fund condition and from what he heard at this meeting, there is no mistaking that there will be a deficit. He recommended that the Board makes clear its cost-cutting efforts and emphasize any trends that affect the fund. Ms. Reid requested that the Board review a list of its cost-cutting efforts at the December 5, 2002, meeting to establish a track record of what the Board has done to reduce costs and a commitment to what will be re-established when fees are increased.

Mr. Sweeney reported that he talked to Robin Hartley, Consultant, Joint Legislative Sunset Review Committee (JLSRC), on September 20, 2002, who is very supportive of the fee increase.

13. REPORT ON JLSRC SUNSET PROCESS AND REPORTING DEADLINES

Mr. Sweeney reported that Senate Bill No. 2028 makes inoperative on July 1, 2005, the provisions creating the Board and authorizing it to appoint an Executive Officer and repeals the provisions on July 1, 2006. Mr. Sweeney also reported that pending the passage of Senate Bill No. 2025 which is on the Governor's desk for signature, these dates will be extended to July 1, 2006, and July 1, 2007.

The Board reviewed the status of each issue in the JLSRC's Final Recommendations for the Board of Registration for Geologists and Geophysicists. Mr. Sweeney advised the Board of deadlines that must be met whether or not Senate Bill No. 2025 is enacted.

Cruz Naranjo recommended that the Board incorporate in its next report the Board's involvement in the Governor's greater plan to make housing much more affordable and much more plentiful.

14. REPORT ON NATIONAL ASSOCIATION OF STATE BOARDS OF GEOLOGY (ASBOG) CHARTER, BYLAWS AND POLICIES WITH PROPOSED AMENDMENTS AND PREPARATIONS FOR NOVEMBER 2002 ASBOG ANNUAL MEETING IN BILOXI, MISSISSIPPI

Mr. Sweeney provided copies of draft minutes of the National Association of State Boards of Geology's (ASBOG) Annual Meeting on October 13, 2001, that he had just received.

Mr. Sweeney also provided copies of proposed amendments to ASBOG's Bylaws to be voted on at the November 9, 2002, Annual Meeting. He

directed the Board's attention to section 7.04 – Review of Finances where, despite the efforts of this Board and other states, an audit has been deleted.

The Board discussed who should attend the Annual Meeting on November 9, 2002.

Ms. Reid moved that one Board member and the two individuals representing the Board on the Council of Examiners attend the Annual Meeting and that the Board write a letter to ASBOG's President with copies to the Executive Committee and all member states, opposing the proposed amendment to section 7.04 of the Bylaws in favor of the previous motion acted upon and sustained at the 2000 Annual Meeting in San Francisco.

Mr. Ross seconded.

**The motion passed unanimously.
(Board Directive 02-22) – (Sweeney)**

Dr. Matthews moved for reconsideration of the motion.

Mr. Fiddler seconded.

The motion did not pass. (Yes – Fiddler, Matthews. No – Black, Reid. Abstain – Copelan, Ross.)

Ms. Reid requested the status of the Ethics Policy for ASBOG members proposed at the last Annual meeting. Mr. Sweeney will contact John Williams, Ph.D., to find out the status.

(Board Directive 02-23) – (Sweeney)

Ms. Reid moved that Craig Copelan attend the 2002 ASBOG Annual Meeting and to send a letter to ASBOG to allow Mr. Copelan access to the Council of Examiners Workshop.

Mr. Black seconded.

**The motion passed unanimously.
(Board Directive 02-24) – (Sweeney)**

The Arizona Board of Technical Registration (AZBTR) has requested other member states to join its opposition to proposed amendments to Article 3 of the Bylaws which limit a board to having as a voting delegate only a member of the Board or a Registered Geologist designated by the

Board.

Ms. Reid moved to not support the Arizona Board of Technical Registration's action to allow Board administrators to vote.

Mr. Fiddler seconded.

The motion passed unanimously.

The Board will decide whether or not to send two representatives to the Council of Examiners Workshop in Spring 2003 at the December 5, 2002, meeting.

Mr. Copelan stated that since he was selected to attend the Annual Meeting, he would be more comfortable and better able to represent the Board if Mr. Sweeney could attend and provide valuable information and background.

Mr. Copelan moved to reconsider the previous motion regarding who shall attend the 2002 ASBOG Annual Meeting and that the Executive Officer attend in addition to Mr. Copelan and the two representatives to the Council of Examiners.

Dr. Matthews seconded.

The motion passed by majority. (Aye – Copelan, Fiddler, Matthews, Ross. No – Reid, Black.)

15. TECHNICAL ADVISORY COMMITTEE REPORT

Tony Sawyer, Chair, Technical Advisory Committee:

- a.** The Board received copies of the draft minutes of the August 23, 2002, Technical Advisory Committee. Mr. Sawyer reported that he was elected Chair and Michael Hart was elected Vice Chair. The Committee developed a plan for revising the definition of the practice of geology.
- b.** The Committee recommended two alternatives to the Board for amendments to section 3065, California Code of Regulations, requiring licensees to notify the board of reports that do not meet professional standards and/or that may contain violations of the code. One alternative applies to all licensees who review geological or geophysical reports, and one alternative applies only to licensees employed by public agencies and whose responsibility it is to review geological or geophysical reports.

Ms. Reid moved to select the Technical Advisory Committee's recommendation to amend section 3065, California Code of Regulations, to require a licensee who reviews geological or geophysical reports to notify the Board of reports that do not meet professional standards and/or that may contain violations of the code and place it on the December 5, 2002, agenda for final action.

Mr. Black seconded.

The motion passed unanimously.

- c.** The Board received a copy of a letter, dated August 26, 2002, from Trinda L. Bedrossian, California Geological Survey (CGS), to Frank Reichmuth, North Coast Regional Water Quality Control Board, regarding the Terms of Reference, the Scientific Review Panel and the practice of geology by Panel members. Michael Hart, Technical Advisory Committee member and representative of the Board, will meet with this group as soon as a meeting is scheduled. Mr. Sweeney also will contact Mr. Reichmuth regarding the unlicensed practice by members of the Panel.
- d.** The next Technical Advisory Committee meeting will be on November 1, 2002, in Sacramento.

The Committee has tabled development of Professional Practice Guidelines.

16. LEGISLATIVE COMMITTEE REPORT

Mr. Sweeney reported for J. C. Isham, Chair, Legislative Committee, who was unable to attend the meeting because he is attending the Association of Engineering Geologists Convention in Reno, Nevada. The Board received a written report prepared by Mr. Isham.

Senate Bill No. 1011 was signed by the Governor and will transfer the Registered Environmental Assessor Program from the Office of Environmental Health Hazard Assessment to the Department of Toxic Substances Control on January 1, 2003. Senate Bills Nos. 1244 and 2018 are on the Governor's desk for signature. Senate Bills Nos. 1958 and 2024 are dead. Senate Bill 2059 was referred to Committee. Senate Bill No. 2025 regarding extension of Sunset Review dates has not been signed by the Governor yet.

17. EXAMINATION COMMITTEE REPORT

Mr. Sweeney reported for Scott Hector, Chair, Examination Committee, who was not present.

- a. The Board received copies of the draft minutes of the September 13, 2002, Examination Committee meeting.
- b. Currently, 36 Registered Geologist applicants, two Registered Geophysicist applicants, 21 Certified Engineering Geologist applicants and seven Certified Hydrogeologist applicants have applied to take the Spring 2003 examinations. Mr. Sweeney cautioned that these numbers are on the low side. The application deadline is December 6, 2002.

The Office of Examination Resources (OER) is unable to conduct the Registered Geophysicist occupational analysis this fiscal year due to budgetary and personnel restraints.

Tracy Ferrel, Ph.D., Chief, OER, performed a preliminary audit of the process used to establish content validation for Oregon's and Washington's Certified Engineering Geologist and Certified Hydrogeologist examinations. She is satisfied with the processes; however, there are issues remaining that need to be addressed. She advised the Examination Committee that it should review Oregon and Washington's examination questions after the remaining issues are resolved before making a recommendation on cooperative licensure to the Board.

18. REPORT FROM BOARD ATTORNEY ON STATUS OF ASSIGNMENTS

Mr. Duke had no assignments on which to report.

Mr. Hector arrived at 1:10 PM.

19. ESTABLISH BOARD CALENDAR AND VENUES FOR CALENDAR YEAR 2003

The Board scheduled Board meetings for 2003 in Sacramento on January 31, May 2, September 12 and December 5.

20. ESTABLISH AGENDA FOR DECEMBER 5, 2002 BOARD MEETING WITH NOTIFICATION THAT ITEMS MUST BE SUBMITTED TO BOARD OFFICE NO LATER THAN THREE WEEKS PRIOR TO THE MEETING DATE

Dr. Matthews asked that agenda items for the December 5, 2002, meeting be submitted to Mr. Sweeney no later than three weeks prior to the meeting.

Due to budgetary restraints, the meeting will be held in Sacramento.

21. ANNOUNCEMENTS/ACTIVITIES OF BOARD MEMBERS

Mr. Fiddler reported that he is involved as an expert witness in what will be a landmark case. It is not a Board-related case.

22. ADJOURN MEETING

Dr. Matthews adjourned the meeting at 1:20 PM.

Robert A. Matthews, Ph.D., Vice President

PAUL SWEENEY, Executive Officer

Date Approved: December 5, 2002